

# **EXHIBIT O**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

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CLINTON HENDERSON and  
ANDREW OLINDE, individually and  
on behalf of all other similarly situated  
individuals,

Civil Action No.: 1:13-cv-3767-TWT

Plaintiffs,

v.

1400 NORTHSIDE DRIVE, INC. d/b/a  
SWINGING RICHARDS, AND C.B.  
JONES,

Defendants.

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**STIPULATION**

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WHEREAS, Plaintiffs Clinton Henderson and Andrew Olinde, on behalf of themselves and the opt-in Plaintiffs (“Plaintiffs”) brought this collective action for minimum wages pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, et seq. against 1400 Northside Drive, Inc., d/b/a/ Swinging Richards (“Defendant 1400”) and C.B. Jones (“Defendant Jones”) (collectively “Defendants”).

WHEREAS, Plaintiffs allege that they are and/or were employees of Defendants for purposes of the FLSA;

WHEREAS, Plaintiffs allege that Defendants are and/or were Plaintiffs' employers for purposes of the FLSA;

WHEREAS, on May 28, 2014, Defendant 1400 filed an Amended Answer to Plaintiffs' First Amended Complaint asserting that Plaintiffs were properly classified as independent contractors and denying, among other things, that Plaintiffs are and/or were employees of Defendant 1400 for purposes of the FLSA, and that it was an employer for purposes of the FLSA (ECF No. 53);

WHEREAS, Plaintiffs filed a Second Amended Complaint on July 16, 2014 adding Defendant Jones (ECF No. 64);

WHEREAS, the parties wish to litigate this case as efficiently and expeditiously as possible;

WHEREFORE, the parties hereby STIPULATE and AGREE:

(1) For purposes of this case only, unless determined by the Court not to be an "enterprise engaged in commerce or in the production of goods for commerce," or unless the Court determines that the Plaintiffs are exempt under the "Creative professional" exemption, Defendant 1400 will not dispute that the

Plaintiffs are entitled to all of the benefits of the FLSA, including earning at least the federal minimum wage for each hour worked;

(2) Plaintiffs shall not move for summary judgment or otherwise request that the Court determine as a matter of law that they are and/or were Defendant 1400's employees, that Defendant 1400 is and/or was their employer; or that Plaintiffs were misclassified as independent contractors; and

(3) Defendant shall not rely on the "independent contractor" defense during any portion of this litigation, including trial and appeal.

DATE: July 22, 2014

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
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**CERTIFICATE OF SERVICE**

***Henderson, et al. v. 1400 Northside Drive, Inc. d/b/a Swinging Richards, et al.***  
**Court File No.: 1:13-cv-3767-TWT**

I hereby certify that on July 22, 2014, I caused the **Stipulation** to be served by electronic mail with consent to the following persons at the following addresses:

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Dated: July 22, 2014

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